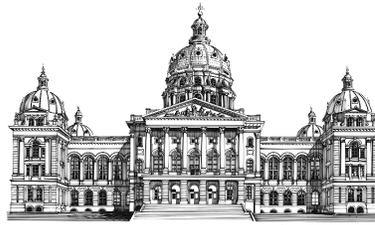


Iowa Legislative Fiscal Bureau

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State Capitol
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Sex Offender Registry

ISSUE

This *Issue Review* provides a history and description of the Sex Offender Registry as well as addresses present issues and is prepared in consultation with the Department of Public Safety and the Sex Offender Registry Bureau.

AFFECTED AGENCIES

Department of Public Safety

CODE AUTHORITY

Chapter 692A, Code of Iowa

BACKGROUND

The Iowa Sex Offender Registry became law on July 1, 1995, in SF 93 (Sex Offender Registry Act). On or after July 1, 1995, an individual who has been convicted or adjudicated of a criminal offense against a minor, sexual exploitation, or a sexually violent crime or who was on probation, parole, or work release status, or who was incarcerated on or after July 1, 1995, is required to register. Registration does include individuals that have received a deferred sentence or deferred judgments and can include convictions from other jurisdictions such as other states and/or federal convictions.

A person who is required to register, but has failed to comply with the guidelines as listed in Section 692A.7, Code of Iowa, is guilty of an aggravated misdemeanor¹ for a first offense and a Class D felony² for a second or subsequent offense. A person who fails to register and commits a criminal offense against a minor, sexual exploitation, or a sexually violent offense commits a Class C felony³.

On July 1, 1998, SF 2292 (Sex Offender Registry Act) required the development of methods and established procedures for risk assessments to be completed on sex offenders. On July 1, 1999, SF 294 (Sex Offender Registry Act) allowed public notifications of moderate and

¹ Not to exceed 2 years imprisonment and a fine of at least \$500 but not more than \$5,000.

² Not to exceed 5 years imprisonment and a fine of at least \$750 but not more than \$7,500.

³ Not to exceed 10 years imprisonment and a fine of at least \$1,000 but not more than \$10,000.

high-risk offenders to become available on the Internet. The Internet website was operational on March 16, 2000. (www.state.ia.us/government/dps/dci/isor)

At the time of release from custody or upon placement of probation, Iowa law requires that a sex offender be assessed. A convicted sex offender is required by law to register with the Iowa Sex Offender Registry and must do so for a minimum of 10 years.

If a registrant is convicted of an "aggravated offense," is convicted of a second or subsequent offense, or is deemed a sexual predator by the Courts, the offender must register for life. "A sexual predator is a person convicted of or charged with a sexually violent offense and who suffers from a mental abnormality which makes that person likely to engage in predatory acts constituting sexually violent offenses if not confined in a secure facility." (Section 229A.2, Code of Iowa)

Once convicted and released from custody, a sex offender has five days to register with the sheriff of the county in which that person resides. At the time of registration, the sex offender may be required to pay \$10 to the sheriff, which is used to defray the cost of duties related to the registration process. This \$10 fee can be waived at the discretion of the sheriff. Notification of the sheriff's office and the potential payment of \$10 must be done every time the sex offender moves to a new address or has a change of name.

At the time of conviction, Iowa law requires that an offender be assessed a one-time civil penalty of \$200 payable to the Clerk of Court of the county. At the time of payment, the Clerk of Court deposits \$20 in the Court Technology and Modernization Fund and the balance of \$180 is deposited in the Sex Offender Registry Fund in the Department of Public Safety (DPS).

In 1999, SF 294 (Sex Offender Registry Act) required the listing of all moderate and high "at-risk" offenders on the Internet. Sex offenders who have an "at-risk" rating of moderate or high and have had a chance to appeal can be placed on the Internet. The General Assembly has not required public notifications for "low risk" offenders. A sex offender has approximately 14 days to appeal an at-risk rating to the agency who performed the at-risk assessment.

CURRENT SITUATION

As of September 1, 2000, there are 3,702 individuals registered with the Iowa Sex Offender Registry. The Registry increases by approximately 60 offenders per month. It is estimated that by FY 2005, there will be 7,500 sex offenders in the Registry. **Attachment A** is a map of Iowa displaying the number of sex offenders in each Iowa county. **Attachment B** is a map of the United States with the number of registered sex offenders in each state.

In the 2000 Legislative Session, HF 2552 (FY 2001 Justice Systems Appropriations Act) requested a legislative interim committee to study the effectiveness of the Program, the method of determining placement on the Registry, the timeliness of information placed on the Registry, and the dissemination of information on the Registry as well the effectiveness of other State's programs at both the State and local levels. The study was not approved by the Legislative Council. In October 1999, the Supreme Court ruling *State v. Reiter* set a precedent regarding the non-compliance penalty for sex offenders which led to the passing of SF 2031 (Sex Offender Registry Act), to reduce the notification period for an address or name change from ten to five days.

The Division of Criminal Investigation within the Department of Public Safety is responsible for maintaining the database for the Registry, which includes entering all new registrants and changing information (name and/or address) of current registrants. Verification is done through annual/quarterly verification of address forms that the Division of Criminal Investigation sends to all

registrants. Each change in information requires updating the database, updating the website, and public re-notification. Approximately 700 registrants failed to return the verification of address in FY 2000. Approximately 60.0% of the registered sex offenders in Iowa move at least once a year.

The Division of Criminal Investigation staff also conduct risk assessments, public notification, and investigation of non-compliance. Risk assessments on registrants that are not under the supervision of the Department of Corrections, Department of Human Services, or Juvenile Court Officers are done by the Division of Criminal Investigation. A risk assessment consists of gathering, reviewing, and evaluating background information about the individual such as use of violence, sexual contact, number and age of victims, relationship with the victim, criminal history, response to treatment and confinement, release information, supervision, living situation, threats, and mental abnormality. Anytime a sex offender is convicted in Iowa or moves to Iowa, a risk assessment is done on that individual. Most states have a risk assessment tool. Iowa's risk assessment tool is modeled after the one utilized in the State of New York.

For FY 2000, the Division received approximately 5,192 written requests for information and 21,399 law enforcement agency requests. In the seven months that the Internet website has operational, there have been 63,320 inquiries to the Sex Offender Registry website. If a citizen makes an inquiry on the Internet about a registrant that has been assessed moderate or high risk and has had the chance to appeal, the citizen will receive information which includes the individual's name, address, and physical descriptors including scars, marks, and tattoos.

Any person may contact a sheriff's office or a police department in writing to request information regarding any person required to register on the Registry. A request for information must include the suspected person's name and either their date of birth, social security number, or address. Iowa law does not allow the release of an entire listing of registrants in a county, city, or neighborhood. A form must be completed for each individual in question. However, there is no limit to the number of inquiries. A citizen may go into the sheriff's office and ask to see the "at-risk" file however, which will show them all the sex offenders in that county that were required to make a public notification.

Issues that still remain unresolved today include the backlog of risk assessments as well as public notifications and re-notifications and offender non-compliance. The Iowa sex offender program is also required to comply with established federal regulations. Failure to comply with federal regulations results in the State losing 10.0% of its Byrne Grant funds. In FY 1999, the Byrne Grant for the State of Iowa totaled \$5.8 million.

The primary concern of the Division of Criminal Investigation is the lack of personnel to investigate non-compliance, assist in processing address verification forms, conduct public notifications and re-notifications, and perform risk assessments. As of January 2000, 1,950 offenders had not had risk assessments and public notifications were done due to the caseload backlog. Additional personnel may help the Sex Offender Bureau catch up on the caseload backlog, which at the current staffing level with no additional offenders added to the Sex Offender Registry, is estimated to take 15 years according to the Bureau Supervisor.

Iowa is in the process of reorganizing the Sex Offender Registry data so that it is compatible with the National Sex Offender Registry. By November 25, 2000, all sex offender registries in the nation are to be in compliance and compatible with the national registry but Iowa has filed for a two-year extension. Once this data upload is complete, Iowa will be in compliance with all federal regulations.

In addition to the backlog of risk assessments, there is a growing backlog in public notifications as well. The more public notifications that are made by the Sex Offender Registry Bureau, the more

public re-notifications become necessary and therefore are creating a backlog in this area. Presently, 20 public notifications a month are going uncompleted. According to the Sex Offender Registry Bureau, there are 800 initial public notifications that have not been through the appeal process but will eventually need to be sent and 350 that have gone through appeal and need to be sent out to the counties. Public re-notifications take top priority over first time public notifications.

BUDGET IMPACT

Senate File 459 (FY 1996 Justice Appropriations Act), authorized \$75,000 and 2.00 FTE positions to the Department of Public Safety, Criminal Investigations Division to operate the Sex Offender Registry. The original \$75,000 and 2.00 FTE positions was intended to be divided with \$50,000 for required programming to create the registry and \$25,000 to partially fund the 2.00 FTE positions. The initial lack of staff contributed to the backlog that currently exists with the Sex Offender Registry. In FY 1997 and FY 1998, the Department of Public Safety requested 2.00 additional FTE positions, which were not funded. In FY 1999, Public Safety requested 11.00 FTE positions. Of this request, 4.00 FTE positions (3 special agents and 1 clerical) were authorized. Funding for the supervisor of the Sex Offender Registry Bureau is not funded through the Sex Offender Registry Budget.

The Sex Offender Registry has 6.00 funded staff positions in the Division of Criminal Investigation, which includes:

- 3 Special Agents
- 1 Program Planner II
- 1 Program Planner I
- 1 Information Technology Support Worker

The Department of Public Safety has received federal funding for FY 1998-99 totaling \$420,506 to bring the Iowa Sex Offender Registry into compliance with the National Registry. The balance of the Registry's funding of \$467,283 comes from General Fund appropriations and the Sex Offender Registry Fund.

The Sex Offender Registry Fund was established in 1995 in SF 93 (Sex Offender Registry Act) and consists of moneys received as a result of the imposition of the civil penalties imposed under Section 692A.6, Code of Iowa. Money in the fund does not revert at the end of the fiscal year, however, the Department of Public Safety rolls this money in with the General Fund appropriation and therefore does not collect interest.

If all registrants were required to pay the \$200 civil penalty and there was a 100% collection rate, the Sex Offender Registry Fund would have received a total of \$666,360 over the last five years. Following are the receipts recorded in the Sex Offender Registry Fund:

- FY 1996 - \$6,566
- FY 1997 - \$9,997
- FY 1998 - \$18,813
- FY 1999 - \$26,574
- FY 2000 - \$27,008
- TOTAL - \$88,958

Following is the history of General Fund appropriations for the Sex Offender Registry:

- FY 1996 - \$75,000

- FY 1997 - \$46,562
- FY 1998 - \$45,885
- FY 1999 - \$447,657
- FY 2000 - \$467,283

Stricter application of the penalties and fines associated with the Registry could generate additional revenue for the Judicial Branch and the Department of Public Safety. The Registry continues to grow by 60 new offenders a month. The Sex Offender Registry Fund would receive \$7,560 per month (\$90,720 a year) assuming 70% collection rate of the \$180 civil penalty. The Judicial Branch could potentially generate \$10,080 a year for the Court Technology and Modernization Fund.

Imposing the \$10 registration fee on all sex offenders at the local level would generate approximately \$36,200 for the local law enforcement agencies, using the following assumptions:

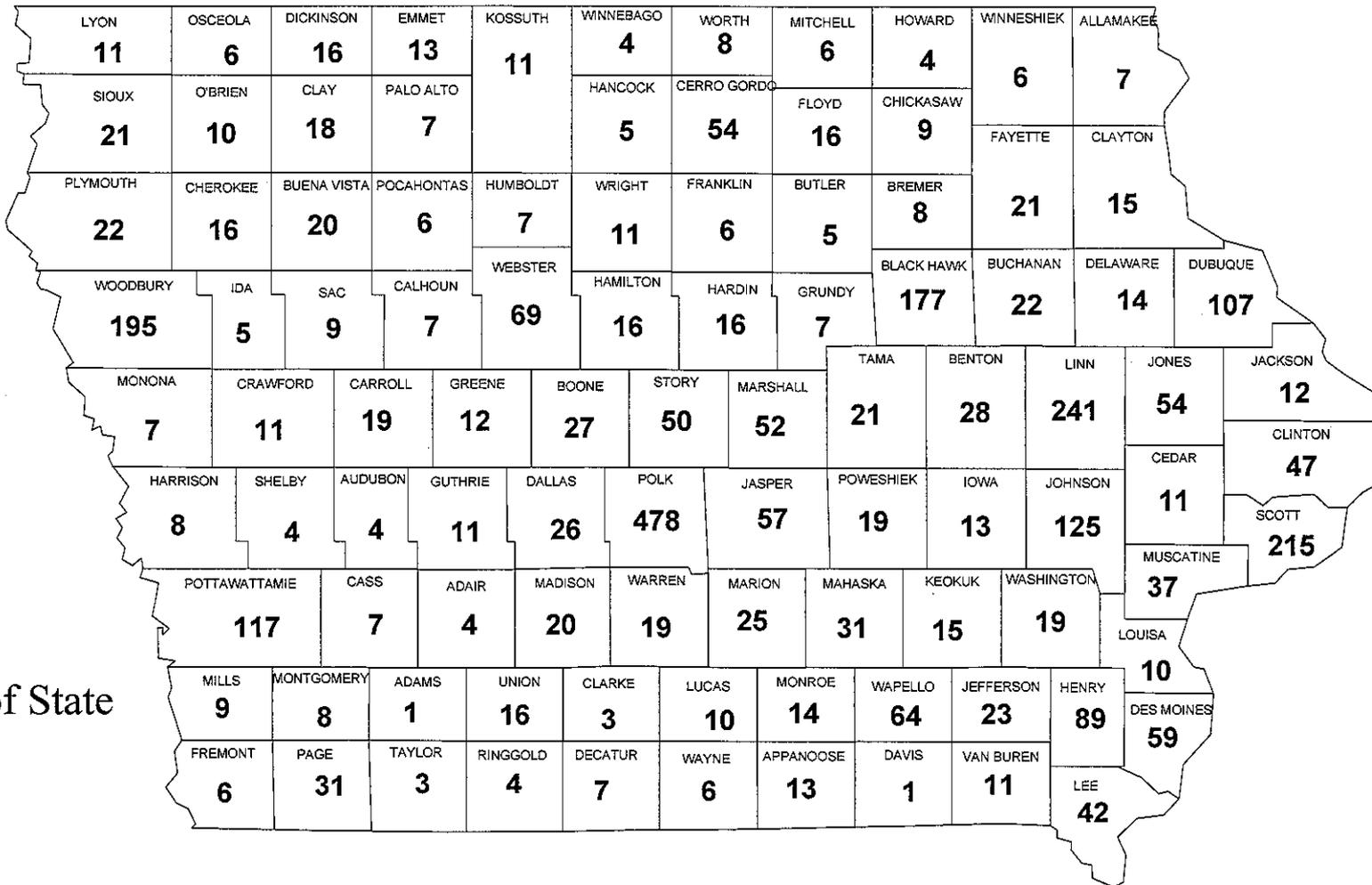
- 720 new offenders per year
- 2,900 offenders would file address change forms (100.0% compliance).

ALTERNATIVES

- One option would be to place all 3,702 sex offenders on the Internet for public notification purposes, which would allow current staff to focus on other elements of the Sex Offender Registry Bureau such as address verifications and non-compliant offenders. This would require a change to the present law under Section 692A.13, Code of Iowa. Approximately 19 states in the nation place all sex offenders on the Internet and use the Internet for purposes of public notification. In Kentucky, risk assessments are used for treatment purposes but not to classify offenders. Registration designation is based on the offense committed and the prior criminal history, which allows everyone to be placed on the Internet for public notification purposes. Iowa requires public notifications on moderate and high-risk offenders. Besides placing moderate and high-risk sex offenders on the Internet, Iowa officials are also required to prepare notification packets that are sent out to local officials, which include 12 flyers that are to be distributed in the offender's neighborhood and a media release. However, it is up to the sheriff's office as to when these materials are distributed.
- Transfer the responsibility for public notifications, maintaining addresses, name changes, and risk assessments from the State to the county level. Washington, New Hampshire, and New Jersey require that the county sheriffs be responsible for tracking the sex offenders that reside in their county.
- The General Assembly could appropriate additional staff and money to the Sex Offender Registry Bureau within the Department of Public Safety. The Department of Public Safety has requested 5.00 FTE positions and \$344,000 in General Fund dollars for FY 2002.
- The General Assembly could change the law and requirements to fit the appropriation.
- The Sex Offender Registry Bureau could employ interns and temporary staff to help with the data processing backlog in the Sex Offender Registry Bureau. Public Safety is looking into this possibility. There are presently two interns working in the Sex Offender Registry Bureau and two more to start in January.

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Sex Offender Registry

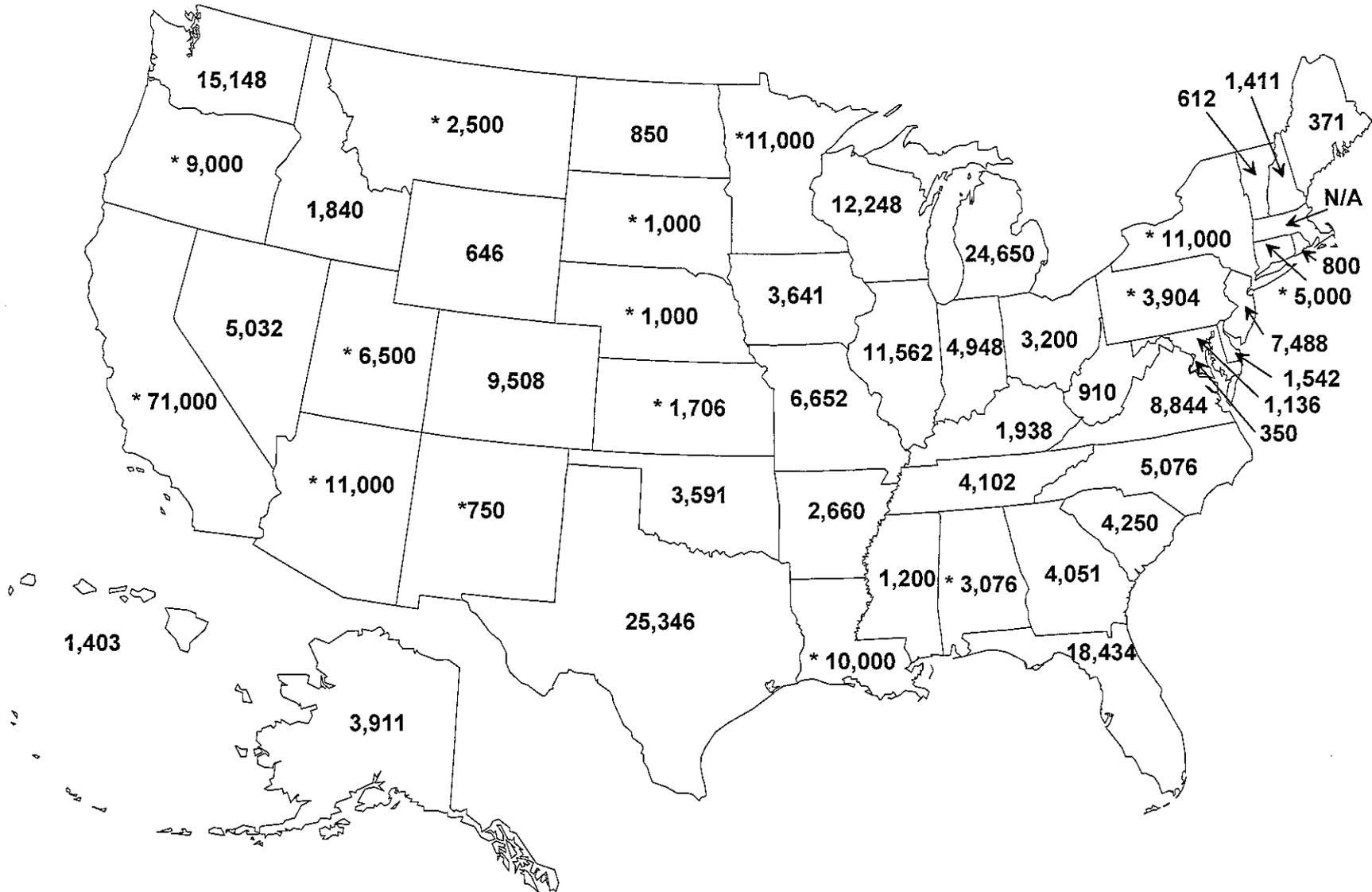
Iowa Sex Offender Registry Year To Date Report September 10, 2000 3,702 individuals



413 Out of State

Attachment A

Registered Sex Offenders in the United States



Note: 1. Depending on the State, information current as of December 31, 1999, to present
 2. * Estimates in numbers